SOUTHERN DISTRICT OF NEW YORK	37	
RINELLA C. BINNS-HARTY-BOLT,	: : :	
Plaintiff, -v-	:	21 Civ. 7276 (PAE)(BCM) OPINION & ORDER
DENIS R. MCDONOUGH, Secretary, Department of Veterans Affairs,	: : :	
Defendant.	: X	

PAUL A. ENGELMAYER, District Judge:

Currently pending is a motion by defendant Denis R. McDonough, in his official capacity as Secretary of the United States Department of Veterans Affairs, to dismiss the hostile work environment cause of action in plaintiff Rinella C. Binns-Harty-Bolt's Third Amended Complaint ("TAC") for failure to state a claim under Rule 12(b)(6) of the Federal Rules of Civil Procedure. Dkts. 28, 90. Before the Court is the June 21, 2024 Report and Recommendation of the Hon. Barbara C. Moses, United States Magistrate Judge, recommending that the Court grant defendant's motion. Dkt. 106 ("Report"). The Court incorporates by reference the summary of the facts provided in the Report. For the following reasons, the Court adopts this recommendation.

DISCUSSION

In reviewing a Report and Recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept those portions of the report to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the

record." Ruiz v. Citibank, N.A., No. 10 Civ. 5950 (KPF), 2014 WL 4635575, at *2 (S.D.N.Y.

Aug. 19, 2014) (quoting King v. Greiner, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at *4

(S.D.N.Y. July 8, 2009)); see also, e.g., Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169

(S.D.N.Y. 2003).

As no party has submitted objections to the Report, review for clear error is appropriate.

Careful review of Judge Moses's thorough and well-reasoned Report reveals no facial error in its

conclusions; the Report is therefore adopted in its entirety. Because the Report explicitly states

that "[f]ailure to file timely objections will result in a waiver of such objections and will preclude

appellate review," Report at 17, the parties' failure to object operates as a waiver of appellate

review. See Caidor v. Onondaga Cty., 517 F.3d 601, 604 (2d Cir. 2008) (citing Small v. Sec'y of

Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)).

CONCLUSION

For the foregoing reasons, the Court denies grants defendant's motion to dismiss the

TAC's second cause of action without further leave to amend. The Clerk of Court is respectfully

directed to terminate the motion pending at Docket 90.

SO ORDERED.

Paul A. Engelmayer

United States District Judge

Paul A. Engely

Dated: July 10, 2024

New York, New York

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